

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

ORDER
07 Cr. 466 (PKC)

XIU LIN YANG

Defendant.

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Upon the application of HOWARD L. JACOBS, ESQ., for a psychiatric evaluation pursuant to Title 18, United States Code, Sections 4241 and 4242, it is hereby

ORDERED, that a psychological and clinical examination be conducted on the defendant Xiu Lin Yang to determine whether he may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, pursuant to 18 U.S.C. §4241(b); and to determine if he was insane at the time of the offense pursuant to 18 U.S.C. §4242.

IT IS FURTHER ORDERED, that Marc Janoson, a psychologist be appointed to conduct the examination of Mr. Yang .

Dated: New York, New York
September , 2007

HON. P. KEVIN CASTEL
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,

-against-

AFFIRMATION
07 Cr. 466 (PKC)

XIU LIN YANG

Defendant.

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HOWARD L. JACOBS, an attorney duly admitted to practice, affirms under penalties of perjury pursuant to 28 U.S.C. § 1746.

1. I represent defendant Xiu Lin Yang and submit this affirmation in support of the attached order seeking that Mr. Yang be examined by a psychologist to determine if he is mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or assist properly in his defense pursuant to 18 U.S.C. § 4241(b) and whether he was insane at the time of the alleged offense.

2. On May 24, 2007 Mr. Yang pled guilty to entering into a marriage for the purpose of evading the immigration laws in violation of 8 U.S.C. § 1325(c). At that time he appeared to me, the prosecutor and the Court to be competent. However, on September 14, 2007 Mr. Yang came to my office to have the Pre-Sentence report translated to him in Mandarin. During the conference he denied his guilt to the charge he had pled guilty to and made numerous conflicting statements about the facts of the case.

3. In answer to my question Mr. Yang said he wished to be examined by a psychiatrist as to his mental health. I totally agree that there is a question of Mr. Yang's mental

competence. Furthermore, I feel at the same time Mr. Yang should be examined to determine if he was insane at the time of the alleged offense.

4. I have attached the *curriculum vitae* of Marc Janoson, PhD.

5. I would respectfully request that Dr. Janoson be appointed to conduct the examination of Mr. Yang.

New York, New York
September 26 , 2007

Howard L. Jacobs